

Chapter 5

Croatia: stability amidst heterogeneous collective bargaining patterns

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It is difficult to describe the main features of the collective bargaining system in the Republic of Croatia because there is no uniform collective bargaining system. There is no dominant pattern of collective bargaining regarding the level at which it is conducted, collective bargaining cycles, the content of collective agreements and the relationship between agreements concluded at different levels. Instead, at least three different patterns of collective bargaining can be identified. The first is characterised by collective bargaining that takes place exclusively at industry level, without additional agreements at lower levels. In this pattern, which predominates in the public sector, including education, health care and state administration, wage provisions are not strictly defined. The second pattern is characterised by bargaining at industry and company level. It is found primarily in construction and tourism, in which, in addition to industry-level agreements concluded by industry-level trade unions and employers' organisations, company collective agreements are signed in a large number of companies. The third pattern is characterised by bargaining at only the company level. It is present in public and private companies outside sectors with a tradition of industry-level collective bargaining.

The main characteristic of collective bargaining developments over the past 15 years, as set out in Table 5.1, is their relative stability despite several challenges such as the global economic and financial crisis starting in 2009 and, not least, the country's accession to the EU in July 2013. With the exception of a few industries, collective bargaining patterns in the economy as a whole did not change between 2000 and 2016. One exception is the retail industry, in which collective bargaining 'moved' from the second pattern of multi-level bargaining to the third pattern of decentralised company-level bargaining. This change in the retail industry largely explains the decrease in collective bargaining coverage, from approximately 65 per cent in 2000 to 53 per cent in 2016. The overall stability of collective bargaining in Croatia for the past couple of decades is due mainly to the consolidation of the main industrial relations actors and the country's economic structure after dramatic changes during the transition period in the 1990s. As illustrated in Table 5.1, between 2000 and 2016, the density of employers' associations remained roughly the same and, even though union density declined from just under 40 per cent in 2000 to below 25 per cent in 2016, it is still the highest in all the post-communist countries (see Table A1.H).

Table 5.1 Principal characteristics of collective bargaining in Croatia

| Key features | 2000 | 2016 |
|---|---|--|
| Actors entitled to collective bargaining | Trade unions and employers or employers' associations | Trade unions and employers or employers' associations |
| Bargaining levels | There is no uniform system; it differs by sector. In the public sector negotiations take place at sectoral or company level, while in the majority of private sector firms negotiations take place at company level | |
| Favourability principle/possibilities to derogate from (cross-) sectoral agreements | Yes. Favourability principle is absolute, there is no possibility to derogate rights at lower level | |
| Collective bargaining coverage (%) | ≈65 | 53 |
| Extension mechanism (or functional equivalent) | Yes, by decision of minister of labour, if both sides request it | Yes, by decision of minister of labour, if test of public interest is positive |
| Trade union density (%) | ≈38 | <25 |
| Employers' association density (%) | ≈50 per cent of employees in the private sector work in companies that are a member of an employers' association | |

Sources: Bagić (2013).

Industrial relations context and principal actors

The characteristics of the collective bargaining system in the Republic of Croatia today were established relatively gradually in the period from 1990 until 2000. The main reasons for the relatively long formation process are to be found mainly in the economic and political transition, which was strongly affected by the war of independence ('Homeland War') and its consequences,¹ and by the authorities' focus on nation-building during the transition process. The first Labour Act (*Zakon o radu*, ZOR), which defined the employment relationship as a contractual and market relationship between a worker and an employer, came into force as late as early 1996: that is, more than five years after the formal abandonment of the socialist system.

Collective bargaining had begun before the adoption of the Labour Act, which regulated that area in detail. In September 1991 the democratically elected government and the three trade union confederations signed the first agreement, which can be considered the framework collective agreement.² This agreement set the framework for the conclusion of general national collective agreements, which regulate workers' financial and other rights. The first general national collective agreement for employees in private and state-owned companies was signed in July 1992. It defined the rules for harmonising wage developments in accordance with inflation, which in 1992 stood at 938 per cent on an annualised basis. In October 1992 a similar agreement was signed for public and state employees: for example, schools, hospitals, police and state administration. In

1. It has to be borne in mind that around one-third of national territory was occupied and significant parts of it were directly affected by the war, which had devastating consequences for the economy and the labour market. The Croatian authorities established full control over the whole territory only as late as in 1998.
2. At that time, the majority of the economy was still state-owned and privatisation was still not implemented on a large scale. Therefore, the government was an indirect employer to the majority of the workforce. Mass privatisation started in 1994.

principle, the conclusion of the two agreements regulated the basic rights of almost all workers in Croatia and the formal coverage of the two collective agreements was over 90 per cent.³ The conclusion of the general collective agreement also created the conditions for the conclusion of collective agreements at industry level. In the next couple of years, a dozen industry-level collective agreements were signed. In the early phase of the transition therefore a centralised and coordinated system of collective bargaining was established, similar to the one in Slovenia (Stanojević 2003; see Chapter 26). From the mid-1990s, however, a more decentralised and uncoordinated system emerged. The main forces behind this significant shift in the model of collective bargaining compared with the early phases of the transition period can be found in trade union fragmentation and significant changes in the structure of the economy in the second half of the 1990s. In particular the latter involved changes in the relative importance of different sectors and in the share of medium-sized and large companies. Several very important industries, such as metal and garments, almost disappeared in this process. At the same time, a significant number of large companies were eliminated or fragmented, and numerous small businesses opened. The far-reaching deindustrialisation and the rise of SMEs changed the economic context of industrial relations. The processes behind those changes in the economic structure were the war, a deep economic crisis and ‘tycoon’ privatisation.⁴ After economic turbulence during second half of the 1990s, the structure of the economy stabilised. Today, the structure of the Croatian economy is aligned with that of other developed and medium-developed countries. This means that most economic activity and employment are concentrated in services, which accounts for about 66 per cent of employment, with a particularly high share in tourism; followed by industry, which comprises about a quarter of employment; while agriculture accounts for only about 7 per cent of employment.

On the other hand, the industrial relations cast of characters has been relatively stable since the mid-1990s. As regards trade unions, the main feature is the high level of fragmentation, initially based on ideological lines between new unions and reformed socialist unions and later by the establishment of company-level unions. In the early years of transition, more than 100 new trade unions were established, making a total of about 630 unions by 2016. The majority of these trade unions are company-level trade unions. As industry-level trade unions, most of the former socialist trade unions survived, transformed into modern trade unions. Industry-level and company unions are organised in four national union confederations: the Union of Autonomous Trade Unions of Croatia (Savez samostalnih sindikata Hrvatske, SSSH), the Independent Trade Unions of Croatia (Nezavisni hrvatski sindikati, NHS), the Association of Croatian Trade Unions (Matica hrvatskih sindikata, MHS) and the Croatian Association of Workers’ Unions (Hrvatska udruga radničkih sindikata, HURS). The trade union confederations

3. In formal and legal terms, the only two sectors not covered by the two collective agreements were crafts and agriculture. Those two sectors were dominated by self-employment and so the vast majority of dependent employees were formally covered by the two general collective agreements.
4. ‘Tycoon privatisation’ is a term often used in scholarly and general public discourse to describe the dominant model of privatisation in Croatia and some other South-East European countries. The model implies the concentration of ownership of companies in the hands of a small number of individuals who are close to the political establishment and gained ownership under suspicious circumstances. Individual tycoons have concentrated ownership in various industries without clear synergy and intent mainly on extracting wealth from these companies in as short a time as possible (for example, by selling real estate and machinery) (Županov 2001).

do not have a direct role in collective bargaining, but through their involvement in tripartite social dialogue they exert influence on the legislation regulating collective bargaining.

In contrast, the employers' side is highly consolidated. Since 1993 there has been only one' association, the Croatian Employers' Association (Hrvatska udruga poslodavaca, HUP), which affiliates employers' industry-level and interest representing associations. Because industry-level negotiations exist only in two or three sectors, HUP and the majority of its industry-level associations are not involved in collective bargaining and focus mainly on lobbying for business interests within tripartite social dialogue.

Extent of bargaining

According to the most recent available data (end of 2014), the rights of about 650,000 workers in the Republic of Croatia are regulated by one or several collective agreements, which gives a bargaining coverage of around 53 per cent (Bagić 2016). There is, however, great variation in the level of coverage depending on type of employer and predominant ownership. The highest collective bargaining coverage (88 per cent) is in the public sector, including state and local administration and public services, such as public education, health care and culture. In public companies that are in majority ownership of the state or local and regional self-administrations, the collective bargaining coverage is around 75 per cent. Bargaining coverage in private companies is considerably lower, amounting to only about 36 per cent. Nevertheless, there are also considerable differences within the private sector depending on the industry and the size of the company.

With regard to industry, collective bargaining coverage ranges from 100 per cent in construction and catering and tourism to only 2 per cent in the sector of expert, scientific and technical activities. The complete coverage in construction and catering and tourism is due to industry-level collective agreements, which have been extended to all workers and employers by a decision of the labour minister. In manufacturing industry coverage is around 39 per cent, while in retail it is considerably lower, at a

Table 5.2 Bargaining coverage by ownership sector, 2014

| Sector | Coverage |
|------------------------------------|----------|
| Public administration and services | 88.3% |
| Central government | 100.0% |
| Local government | 17.7% |
| Public enterprises | 74.8% |
| Central government owned | 77.5% |
| Local government owned | 67.4% |
| Private employers | 35.5% |
| Total | 52.8% |

Source: Bagić (2016).

mere 8 per cent. Coverage in banking and finance is above average for the private sector, at around 36 per cent.

Given that there is no settled system for monitoring data on collective bargaining coverage, it is not possible to ascertain trends. The last comprehensive analysis was done in 2009 and yielded overall coverage of around 61 per cent (Bagić 2010), which means that in the five-year period from 2009 until 2014 there was a substantial decrease of collective bargaining coverage of 8 percentage points. The main reason for this decrease was the cancellation of the industry-level agreement for retail, which was extended to all workers in the sector.⁵ Because the retail sector employs around one-sixth of the total workforce, the cancellation of that industry-level collective agreement decreased overall coverage significantly. The second important factor explaining the negative trend are the negative employment effects of the economic crisis in construction and catering and tourism, the two sectors with 100 per cent coverage.

As a regular practice, industry-level collective bargaining has been established only in some industries, and there are structural obstacles to greater coverage at the industry level, on the side of both trade unions and employers. As regards trade unions, the key reasons are the highly fragmented union structure and the fact that company-level trade unions predominate. Industry-level unions exist only in those areas that were developed during socialism, and only in some of these areas was industry-level collective bargaining retained. The main structural obstacle to the development of industry-level collective bargaining on the employers' side is the fact that different industry-level employers' associations use different definitions of the 'industry of activity'. This leads to a lack of coordination and mismatch between trade unions and employers' associations as regards their organisational domain, which hinders the establishment of any kind of social dialogue at industry level, and especially of collective bargaining.

Another explanation for the significant sectoral variation in collective bargaining coverage are the sectoral differences in trade union density. According to the most recent research (from 2014) overall trade union density in the Republic of Croatia was 26 per cent, although with significant differences depending on type, sector of activity and size of employer (see Table 5.3).⁶ Trade union density in the private sector varies considerably depending on company size and area of activity. In large companies, union density is higher than 30 per cent, in medium-sized companies around 15 per cent and in small companies significantly below 10 per cent.

The administrative extension of collective agreements to all employers in an industry plays an important role in collective bargaining coverage, especially in the private sector. At the end of 2014, the two extended industry-level collective agreements, in construction and catering and tourism, formally applied to approximately 140,000

5. According to the Labour Act (Official Gazette No. 93/2014), the labour minister may extend a collective agreement if so demanded by all the signatories to the collective agreement. The decision to extend the collective agreement to those employers that are not members of the employers' association which signed the collective agreement is based on the minister's judgement of whether extension is in the public interest.
6. The results of the author's unpublished research carried out on a nationally representative sample of 2,000 respondents.

Table 5.3 Union density by sector, 2014

| Sector | Coverage |
|------------------------------------|----------|
| Public administration and services | 45.9 |
| Public enterprises | 52.8 |
| Private sector | 11.5 |

Source: author's unpublished research.

workers. This was about 50 per cent of the private sector workforce covered by collective agreements. Although the extension mechanism still plays a relatively important role, its significance has decreased over time. Ten years ago, at least six industry-level agreements were extended, including the collective agreement for retail. The number of extended agreements decreased because some agreements were cancelled, but at least two industry-level agreements are no longer extended because of changes in the Labour Act (ZOR) in 2014. The new Labour Act cancelled all previous extension decisions and defined new and stricter criteria for extension. According to the new criteria, the decision to extend a collective agreement is taken by the minister, based on an obligatory test of public interest. It is no longer enough if the signatory trade union and employers' association submit a joint request for the extension of an agreement. These changes, as well as the redefinition of the validity of collective agreements after expiry, were at least partially influenced by the European Commission, which in several reports on Croatia's macroeconomic situation suggested a restructuring of the collective bargaining system in order to make it more responsive to economic change.

In general, we can conclude that in the Republic of Croatia there is no uniform pattern of collective bargaining with regard to type of agreement in terms of duration, bargaining cycles and dynamics of amendments. Roughly, we can distinguish four different patterns of collective bargaining in terms of their dynamics and duration. The first comprises agreements concluded for a definite period, usually for a year or two, which are common in multinationals or big domestic companies. The second includes agreements concluded for a definite but longer period of four or five years, and are found in the public sector and in public companies. Unlike the first pattern, this type of collective agreement is characterised by relatively frequent changes during the term of the agreement. The third pattern comprises dynamic agreements concluded for an indefinite period, but often updated through amendments that reflect changes in economic circumstances, a pattern common in privatised companies. The fourth pattern comprises relatively inert collective agreements concluded for an indefinite period that are rarely or never changed.

Security of bargaining

Security of bargaining concerns factors that determine the bargaining role of trade unions, such as legislation on union recognition or strikes. According to the Labour Act (ZOR), trade unions are the only actors entitled to conclude collective agreements on behalf of workers in the Republic of Croatia. On the employers' side, a party to a collective

agreement can be an individual employer or an employers' association. Works councils also have the right to negotiate agreements with the employer, but these agreements must not regulate matters related to wages, duration of working time and other issues, which the Labour Act stipulates may be regulated by a collective agreement. In this way trade unions are ensured a collective bargaining monopoly. Because Croatian labour legislation associates the right to strike primarily with collective bargaining, trade unions are thus also guaranteed a monopoly on the right to strike. The right to bargain collectively, and thus the right to strike in relation to collective bargaining, is restricted to representative trade unions in line with the criteria defined in the Croatian Act on the representativeness of employers' associations and trade unions (Official Gazette No. 93/2014). Trade unions can organise a legal strike for three reasons: first, in relation to collective bargaining, as a means of putting pressure on an employer to start negotiations or during negotiations as a means of pushing through their bargaining agenda; second, in case of non-payment of wages to workers in a regular timeframe; and third, as a solidarity strike with workers employed by other employers who are on strike for one of the two other reasons named above.

Against the background of the highly fragmented trade union movement, the question of whether trade unions should have the right to take part in collective bargaining has been a matter of dispute among trade unions since the beginning of the transition. The first Labour Act adopted in 1995 did not adequately regulate this issue, which led to repeated conflicts among trade unions about the composition of trade union bargaining committees. The situation improved in 2012 following the adoption of the first law regulating the criteria and procedure for determining trade union representativeness for collective bargaining (Potočnjak 2016).

If there is competition between unions where collective bargaining is conducted, unions can agree which of them are representative for bargaining purposes. If competing unions cannot reach an agreement, then every trade union may initiate a procedure to determine representativeness for collective bargaining, to be conducted by an independent commission (Representativeness Committee). In that procedure, representative status is granted to all unions representing at least 20 per cent of all unionised workers at the level at which collective bargaining is conducted (see Potočnjak 2016).

As is clear from the described legislative framework for collective bargaining, employers are not able to contest the trade union right to collective bargaining. Only trade unions may contest the right to bargain collectively with other trade unions if they think they are not representative. Employers, however, are not obliged to conclude a collective agreement or to initiate collective bargaining, but trade unions have the right to exert pressure on employers through strikes in order to force the latter to enter into negotiations. Once a collective agreement has been concluded, both sides may cancel it before expiry; according to the Labour Act, a collective agreement may contain provisions on the validity of the agreement after it has expired. If not otherwise agreed, the agreement is valid for another three months after expiry.

Union membership is not a precondition for entitlement to any general social right. Workers who are not union members enjoy all entitlements that trade unions have

agreed in collective agreements. Some trade unions have long advocated measures to reduce the risk of free riding, in the form of a mandatory payment of a 'solidarity contribution' or a 'bargaining fee' for all who enjoy entitlements arising from collective agreements but who are not union members (see Barjašić Špiler and Šepak-Robić 2016).

Level of bargaining

Due to the large variation across different industries, there is no uniformity in Croatia concerning bargaining level and links between different levels. Essentially, there are three main patterns with respect to the bargaining level.

The first pattern concerns public services, state administration and some other industries of the economy in which collective bargaining is conducted exclusively at industry level.⁷ In the case of public services, industry-level collective bargaining is conducted at two levels. First, the so-called 'basic collective agreement for public services' is signed, which regulates joint rights and obligations of workers in all centrally financed public services. This is then followed by the conclusion of additional collective agreements for each industry, such as obligatory primary education, secondary education, science and higher education, social welfare, health care and culture. These agreements regulate matters that are specific to each segment of the public sector. As a rule, agreements at both levels have the same duration.⁸ In the private sector, this practice exists in only a small number of industries, such as health care services, in which collective agreements are regularly signed between the associations of private health care employers and trade unions. Because private employers who provide health care services are as a rule relatively small in terms of the number of workers employed, this model is practical for both employers and for trade unions. There is a similar practice also in the humanitarian demining sector,⁹ but in recent years there have been interruptions of the regular cycle of bargaining. This model could also cover retail because there was an industry-level collective agreement from 1998 until 2013, which was only exceptionally supplemented by additional collective agreements at company level.¹⁰

7. Workers employed in centrally financed state administration and public services formally have different employers, individual institutions or establishments (hospitals, schools, theatres and so on). This is why in Croatia it is common to classify collective agreements that regulate the rights of state employees and public services employees as industry-level collective agreements because they formally regulate the rights of the employees with a larger number of separate employers. It has to be added that this classification is questionable, however, because the signatory to all these agreements on the employer side is the government of the Republic of Croatia, and not the employers' association.
8. Such a collective bargaining system for public services was established in the early 2000s; in the past 15 years, however, there have been situations in which 'the cycle has been broken' at those two levels, in such a way that at a certain point only agreements at one of the two levels was in force. The coordination of these two levels was re-established in 2012. The fact that at some point in time only one of the agreements at the two levels was in force led to a situation in which the provisions of the basic agreement were as a rule repeated in the industry-level agreements for individual public services.
9. After the war of independence, mines covered large parts of Croatian territory. After the war, a significant effort had to be made to clear those areas of mines and that job is still not finished. As the government and international donors continually have to fund demining, a separate industry has developed comprising dozens of companies and several thousand employees.
10. Apart from the industries mentioned, this pattern of bargaining to a certain degree also applies to the wood and paper industry and tourist agencies, which are two industries with valid, though relatively outdated industry-level agreements that are complemented by company-level agreements in only a very small number of cases.

The second pattern refers to industries such as construction and catering and tourism in which bargaining takes place at two levels, the industry level and the company level. In these two industries industry-level collective agreements are extended to all employers. In the large companies of these two industries, however, there is a tradition of concluding company-level agreements in addition to the industry-level agreement. At the end of 2014, in the construction industry there were an industry-level collective agreement and 36 company-level collective agreements; in the tourism industry there were 91 company-level agreements in addition to the industry-level agreement. This is the only pattern of collective bargaining in which there is a challenge concerning the articulation and harmonisation of rights at different bargaining levels. In line with the favourability principle stipulated in the Labour Act (ZOR), it is always the most favourable right that applies to a worker and it is not possible for lower-level agreements to derogate from industry-level agreements. Consequently, it only makes sense to conclude a collective agreement at company level if the employer is prepared to grant better conditions to workers than those agreed in the industry-level agreement; or if there is a need to regulate some issues that have not been regulated adequately by the industry-level agreement. Although there are similarities in these two industries as regards the formal relationship between industry- and company-level agreements, there is no harmonisation in terms of the scope of issues dealt with. For example, basic wages for individual job types have not been regulated by the industry-level collective agreement for the tourism and catering industry, while the agreement for the construction industry defines a minimum wage for each job category.

The third pattern includes those industries in which collective bargaining takes place solely at the company level. Because industry-level bargaining is conducted in only a very limited range of industries (see above), this pattern covers most of the economy, including private and public companies. Apart from bargaining level, it is difficult to find other similarities in this pattern, whether in terms of scope or the cycle and dynamics of bargaining.

Measured in terms of bargaining coverage, the first bargaining pattern is the most important one, accounting for around 43 per cent of total coverage. The third pattern, company-level bargaining only, is the second largest, with a share of 35 per cent of overall bargaining coverage; and the second pattern of multi-level bargaining comes last, with a share of 22 per cent of total coverage. Without the extension mechanism, the share of the second pattern would be much lower.

Because the three patterns have been relatively stable over the past 15 years, there is no clear trend towards the decentralisation of collective bargaining in Croatia, even though in the longer run the system has been considerably decentralised since the end of the 1990s. The only more recent event that points towards decentralisation is the employers' cancellation of the industry-level collective agreement in retail in 2012. More than three years of negotiations after its cancellation did not lead to a new industry-level agreement. The trade unions thus initiated collective bargaining at the company level in a number of companies, which, in turn, advanced the decentralisation of collective bargaining compared with the period before 2012.

Depth of bargaining

Depth of bargaining refers to the processes within trade unions related to the formulation of bargaining claims and, in particular, the involvement of the rank-and-file. Unfortunately, in Croatia there has been no systematic research on internal union practices in collective bargaining processes. Based on information gathered for the purposes of this chapter,¹¹ however, it is possible to identify several basic patterns depending primarily on the level at which collective bargaining is conducted.

In the case of industry-level agreements, signed by industry-level trade unions, collective bargaining is relatively 'shallow'; that is, the process of articulating trade union demands is dominated by the top-level national bodies of trade unions, without consulting lower levels and the membership. Members and lower levels of the organisation are usually informed only about the course of the negotiations, and the methods and intensity of information provision depend greatly on the profile of the industry, which largely determines the type of communication channels that trade unions use.¹² Upon conclusion of the bargaining process, the final decision on a collective agreement is, as a rule, taken by the peak national bodies of industry-level trade unions. In the adoption phase of collective agreements, some trade unions tend to call a referendum in which all union members can state their opinion. This is occasionally practised by some trade unions in public services, but as a rule only if the employer insists on lowering certain workers' rights.

A somewhat deeper process of collective bargaining can be found in situations of company-level bargaining, with small differences depending on whether it is the industry or company union that conducts the negotiations. The very fact that the collective bargaining is conducted at the level of one company implies greater involvement of the grassroots level in the bargaining process, or at least 'closer' relations between the decision-makers and the rank-and-file. The real depth of the consultation process varies here too, however, depending on the size and organisational complexity of the company, and it is somewhat deeper when a company union is bargaining. If collective bargaining at the company level is conducted by an industry trade union, the demands are formulated and bargaining conducted by the representatives of the local union in that company with the assistance of professionals from the national-level union. The fact that the local trade union leaders need to consult with the national level probably reduces their task to consultations with the membership. Lower levels of trade unions are more involved when the bargaining is conducted by the company-level union because there is no need for 'upward' consultations, which leaves room for 'downward' consultations.

11. For the purposes of this chapter, the author interviewed seven trade union representatives active at different levels and taking part in collective bargaining at industry- and/or company level.

12. For example, trade unions that organise professionals and white-collar workers, who use computers and e-mail in their day-to-day work, can inform their members quickly and efficiently via e-mails or newsletters. Those communication channels are less efficient for trade unions who organise manual workers or workers in services because the majority of them does not use e-mail at their workplace, and many do not even use it for personal purposes.

Deep collective bargaining, with the close involvement of all levels of the trade union organisation and members in the process of formulating trade union demands and bargaining positions, is relatively rare, although there are good practice examples. The Independent Trade Union of Road Workers (Nezavisni cestarski sindikat, NCS) is an example of collective bargaining with more depth, at least in the initial phase of formulating the demands. This trade union fosters very intensive consultations in the process of drafting preliminary bargaining positions.¹³ The process starts by inviting all members of a local union branch to propose provisions that need to be changed or regulated in the collective agreement. After that, a working group is set up, with representatives of various occupations in a company and of union headquarters, which drafts the preliminary bargaining positions. Then follow intensive consultations with the members at plant-level, presenting them with preliminary bargaining positions and collecting their proposals and comments. The final union bargaining positions are then drafted on the basis of all the suggestions gathered. After consultation, the bargaining committee is authorised to bargain with the employer, and the agreed text of the collective agreement is not subject to confirmation by the members. Such 'deep' collective bargaining is probably the result of the union's profile and identity. This particular union has a strong activist orientation and is active in anti-corruption campaigns and campaigns against the privatisation of public goods, often in partnership with NGOs.

The importance of internal trade union consultation processes, however, has diminished due to increased trade union pluralism. In about 40 per cent of cases, more than one trade union is recognised as representative at the level at which collective bargaining is conducted (Potočnjak 2016). This reduces the importance of internal trade union processes because the final content of a collective agreement depends strongly on relations between the representative trade unions involved in the bargaining process.

Scope of agreements

In line with labour legislation, working conditions and rights and duties of workers can be regulated by a collective agreement, or in some cases by an agreement between the works council and the employer, or by company statute, which is simply adopted by management.

The structure of the majority of collective agreements is relatively harmonised; there are no great differences in terms of the issues regulated. There may be differences in the way certain rights are regulated, however. There are substantial differences primarily in the regulation of wage level and structure. Three basic types of collective agreements can be distinguished, depending on how they regulate workers' basic wages. The first type are collective agreements in which the basic wage is not regulated by a collective agreement, either because an agreement does not contain any detailed wage provisions or because they are incomplete in that only one element of the wage

13. On the basis of a phone interview with the trade union secretary.

calculation is regulated in detail, for example the basis for the wage calculation, while the other elements, such as the specification of wage brackets or the level of points for a job, are left to the employer's discretion. This model can be found in collective agreements in public services, in the majority of agreements for public companies and in some industry-level collective agreements in the private sector. According to the collective agreement database, at the end of 2016 around 40 per cent of collective agreements belonged to this category.¹⁴ The second type of agreement contains concrete regulations on the basic wage ranges for several major groups of jobs, and the employer can autonomously determine the wage level for a job within a group. At the end of 2016, approximately 10 per cent of valid collective agreements belonged to this category. The third type of collective agreements are those that contain detailed wage provisions, which means that a collective agreement regulates the basic wage for the majority of jobs in detail. This type of collective agreement accounts for just under half of all valid agreements.

The congruence between collective agreements is much stronger when it comes to other wage-related issues, such as various wage supplements and other material workers' rights. Thus, in about 90 per cent of collective agreements there is a provision that the basic wage is increased for each year of service, usually 0.5 per cent a year. A similar percentage of collective agreements specify certain increments for work in atypical situations, including weekends and holidays, night work and shift work. Collective agreements in Croatia devote a lot of attention to various supplementary material rights. Research carried out in 2014 found that collective agreements typically regulate ten different categories of material rights, such as Christmas bonus, annual leave bonus and one-off extraordinary payments (Bagić 2016).¹⁵

Besides wages and material rights, collective agreements typically regulate issues related to the length and distribution of working time, as well as rules on leave and rest periods. These issues are regulated in 75–80 per cent of valid collective agreements, and how they are regulated depends greatly on the sector. Those issues are especially important in construction, tourism and trade. In tourism, which is particularly important to the Croatian economy, especially in coastal areas, the distribution of working time over the year is the key issue in tackling seasonality. In retail, the key issue is the distribution of weekly working time in order to regulate compensation for work during weekends, especially Sundays and holidays.

In addition to these issues, recent collective agreements have increasingly regulated issues related to measures to combat discrimination against particular groups of

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14. The data gathered through analysis of the database of collective agreements of Saveza samostalnih sindikata Hrvatske (SSSH, the Union of Autonomous Trade Unions of Croatia), which at the time comprised around 200 valid collective agreements. More information on the database is available at: <http://www.kolektivni-ugovori.info/>
 15. Different material rights can be grouped in the following categories: bonuses related to individual or group performance, supplements related to employee characteristics, supplements for work in difficult working conditions, supplements that depend on the distribution of working hours, supplements that depend on the place where work is performed, regular payments on special occasions (Christmas bonus, annual leave bonus), one-off extraordinary payments, severance pay, reimbursement of costs related to performing one's job, other benefits.

employees, bullying and protection of vulnerable groups of workers, such as older workers and pregnant workers. According to the SSSH collective agreement database, around a quarter of valid collective agreements deal with discrimination prevention measures, while about half of all agreements contain provisions on bullying. Usually there is an obligation for employers to appoint someone to be responsible for dealing with workers' complaints regarding violations of their dignity. Approximately 45 per cent of collective agreements regulate measures and procedures for the protection of older workers, such as the employer's obligation to move an older worker to a more adequate job in case of reduced work capacity. Company-level collective agreements increasingly include provisions on the role of trade unions and workers' representatives in restructuring processes and/or changes to the company's organisational or management structure.

Degree of control of collective agreements

Degree of control of collective agreements concerns two main issues: first, the extent to which agreed provisions on the rights and duties of workers and employers set the actual terms and conditions of employment; and second, mechanisms for controlling the implementation of collective agreements and compliance (Clegg 1976). Concerning the first aspect, it is important to remember that in a large number of collective agreements some of the most important provisions on workers' material rights are not strictly defined. As described above, the most important matter of collective bargaining, the level of the basic wage, has not been strictly and fully defined in about half of all the valid collective agreements. This applies in particular to industry-level collective agreements, which account for the largest share of the total collective bargaining coverage. On average, the degree of control of collective agreements is higher concerning other material rights, such as wage supplements, than concerning wages. For example, wage supplements, such as additional payments for work in atypical situations, are as a rule strictly regulated in 80 to 90 per cent of valid collective agreements. Furthermore, some 80 per cent of agreements strictly regulate the payment of jubilee awards, paid to workers for their loyalty to an employer (see more in Bagić 2016).

The other component for assessing the degree of control of collective agreements concerns the implementation of agreements and mechanisms to monitor compliance. Here, two aspects are important: (i) the procedures agreed in a collective agreement and (ii) trade unions' ability to monitor compliance in practice. The procedures of dispute settlement regarding agreement implementation are regulated in about two-thirds of valid agreements. As a rule, the dispute settlement procedure defined in collective agreements consists of three steps: first, the two sides try to solve the dispute through negotiations, either by the standing body for monitoring and interpreting collective agreements or by an ad hoc bargaining committee; if the dispute is not settled in internal negotiations, it is taken before the external mediator, which involves a continuation of bargaining with mediation by a third party. If mediation does not settle the dispute, it is put before the arbitration committee, whose decision is binding, but collective agreements define in detail how the arbitration committee is formed.

As regards trade unions' capacity to monitor the implementation of collective agreements, the situation varies greatly depending on the level at which collective bargaining is conducted. As a rule, the unions' monitoring capacity is somewhat weaker in the case of industry-level collective agreements because industry-level trade unions typically have local union branches only in the largest companies and generally not in small or medium-sized companies. This results in a much weaker capacity to monitor implementation in such companies. This applies particularly to collective agreements extended to the whole industry. To some extent, the absence of trade union branches is compensated by the existence of works councils, which are authorised to monitor the implementation of collective agreements. On the other hand, where collective bargaining is conducted at the company level, control is relatively efficient because in such companies there are local unions and one or more trade union officers one of whose most important tasks is to monitor the implementation of collective agreements.

Conclusions

The heterogeneous collective bargaining system gradually developed from the mid-1990s and stabilised in the early 2000s. During the past 15 years, there have been no major structural changes as regards the patterns of collective bargaining set out in this chapter. Decentralisation of collective bargaining could be observed in some industries, such as retail, but this is not a general trend, especially because collective bargaining is already decentralised in large parts of the private sector. In some industries, such as humanitarian de-mining, collective bargaining has been abolished altogether, but again this is not an economy-wide trend. More recently, it was primarily the public sector that experienced stronger pressure on collective bargaining. Under pressure from the high budget deficit and related EU procedures, central government has tried to cut wage-related costs in public administration and public services by reducing some material rights agreed in collective agreements. As unions were not ready to accept this, the government used its legislative power to abolish some rights of this kind. After stabilising the budget deficit and a positive turn in economic indicators, however, regular collective bargaining practice was restored in the public sector.

Croatia's accession to the European Union, together with the process of harmonising legislation, did not have a substantial impact on the patterns of collective bargaining. Multinational companies have not influenced the established bargaining patterns in the past 15 years either, because their share in the Croatian economy did not significantly increase during that period, with the exception of retail. This overall stability of collective bargaining during the past 15 years can be attributed to two key factors: first, the stability of the main industrial relations actors and second, the stability of the structure of the Croatian economy in terms of the importance of particular industries, the share of the public sector and the number of large companies.

Although collective bargaining coverage is relatively high compared with the majority of new EU Member States, the real effect of collective agreements on wages is limited. As described above, the wages of about half the workers formally covered by collective agreements are not strictly defined by a collective agreement. Thus, the real effect of

collective bargaining on working conditions and workers' rights is lower than suggested by the formal coverage rate. On the other hand, in general, working conditions and material rights of workers covered by collective agreements are much better than those of workers who are not covered at all, who are employed mainly in small and medium-sized private enterprises without a union branch or a works council.

Future key challenges to the collective bargaining system in Croatia are linked primarily to the weakening of trade unions as a result of the rapid loss of members caused by the generational shift. Croatian trade unions have managed to retain part of their membership inherited from the socialist period, but now these cohorts are retiring, and trade unions are failing to recruit sufficient new members to compensate for the loss. Additional challenges may be posed by continued restructuring and privatisation of public companies, in which collective bargaining is well developed. At the time of writing (autumn 2018), however, it looks as if these challenges will, at least in the short run, not lead to major changes in the level of collective bargaining coverage or to changes in collective bargaining patterns.

References

- Bagić D. (2010) *Industrijski odnosi u Hrvatskoj - društvena integracija ili tržišni sukob*, Zagreb, Tim Press.
- Bagić D. (2015) *Obilježja sustava kolektivnog pregovaranja u Republici Hrvatskoj: Što znamo, a što tek trebamo doznati?*, Savez samostalnih sindikata Hrvatske. http://www.kolektivni-ugovori.info/wp-content/uploads/2015/03/Obiljezja_sustava_kolektivnog_pregovaranja_u_RH1.pdf
- Bagić D. (2016) *Obilježja kolektivnog pregovaranja u Republici Hrvatskoj: usporedba javnog sektora i gospodarstva*, in Barjašić Špiler L. and Radeka I. (eds.) *Utjecaj kolektivnih ugovora na prava radnika u RH*, Zagreb, Matica hrvatskih sindikata, 107–61.
- Barjašić Špiler L. and Šepak-Robić I. (2016) *Primjena kolektivnog ugovora na nečlanove sindikata i doprinos solidarnosti*, in Barjašić Špiler L. and Radeka I. (eds.) *Utjecaj kolektivnih ugovora na prava radnika u RH*, Zagreb, Matica hrvatskih sindikata, 177–91.
- Clegg H. (1976) *Trade unionism under collective bargaining: a theory based on comparisons of six countries*, Oxford, Basil Blackwell.
- Kokanović M. (2001) *The cost of nationalism: Croatian labour, 1990-1999*, in Crowley S. and Ost D. (eds.) *Workers after workers states. labor and politics in postcommunist Eastern Europe*, Lanham, Rowman & Littlefield Publishers, 141–58.
- Potočnjak Ž. (2016) *Reprezentativnost sindikata i udruga poslodavaca u Hrvatskoj*, *Delavci in Delodajalci*, 16 (1), 83–111.
- Stanojević M. (2003) *Formation of the Slovenian pattern: the strike wave and industrial relations' rigidities*. *SEER: Journal for Labour and Social Affairs in Eastern Europe*, 6 (3), 17–30.
- Županov J. (2001) *Theses on social crisis – the case of Croatia*, *SEER: Journal for Labour and Social Affairs in Eastern Europe*, 4 (1), 39–49.

All links were checked on 17.12.2018.

Abbreviations

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| HUP | Hrvatska udruga poslodavaca (Croatian Employers' Association) |
| HURS | Hrvatska udruga radničkih sindikata (Croatian Association of Workers' Unions) |
| MHS | Matica hrvatskih sindikata (Association of Croatian Trade Unions) and |
| NCS | Nezavisni cestarski sindikat (Independent Trade Union of Road Workers) |
| NHS | Nezavisni hrvatski sindikati (Independent Trade Unions of Croatia), |
| SSSH | Savez samostalnih sindikata Hrvatske (Union of Autonomous Trade Unions of Croatia) |
| ZOR | Zakon o radu (Labour Act) |